

IN RE: PETITION FOR VARIANCE
NW 1/4 Cape May Road, 130' SW of
its intersection w/ Wrights Lane
(1630 Cape May Road)
15th Election District
5th Councilmanic District
Roper Watkins, et ux
Petitioners
* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-196-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the owners of the subject property, Roger and Beatrice K. Watkins. The Petitioners seek relief from Section 1802.3C1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 55.5 feet in lieu of the minimum required 70 feet for a proposed dwelling reconstruction in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Roper and Beatrice Watkins, property owners, and Dwight Little, Professional Engineer with W. Duvall and Associates, Inc., there were no Protestants.

Testimony indicated that the subject property, known as 1630 Cape May Road, consists of 1.116 acres, more or less, zoned D.R. 1.5 and was previously improved with a single family dwelling and detached garage which were recently razed due to their poor condition. The Petitioners are desirous of reconstructing a new dwelling on the lot; however, due to the width of the lot which does not meet current lot width requirements, the requested variance is necessary. Testimony revealed that this property is part of an older subdivision which was developed with smaller width lots many years ago.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and

his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 13th day of December, 1993, that the Petition for Variance requesting relief from Section 1802.3C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 55.5 feet in lieu of the minimum required 70 feet for a proposed dwelling reconstruction in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

TMK:bjs

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

December 13, 1993

Mrs. & Mrs. Roper Watkins
11501 Sherwood Road
Upper Falls, Maryland 21156

RE: PETITION FOR VARIANCE
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(1630 Cape May Road)
15th Election District - 5th Councilmanic District
Roper Watkins, et ux - Petitioners
Case No. 94-196-A

Dear Mr. & Mrs. Watkins:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-4391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Dwight Little
W. Duvall & Associates, Inc. 540 E. Joppa Road, Towson, Md. 21286

People's Counsel
File

ORDER RECEIVED FOR FILING
Date 12/13/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 12/13/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 12/13/93
By [Signature]

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

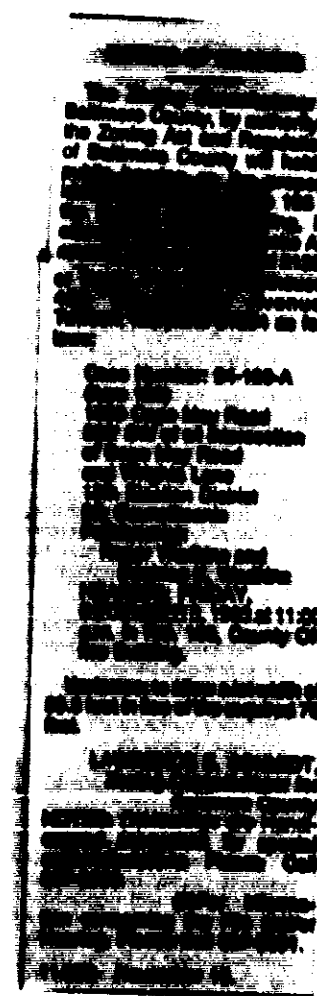
District 15th Date of Posting 11/13/93
Posted for: Notice
Petitioner: Roper & Beatrice Watkins
Location of property: 1630 Cape May Rd., near Wrights Lane
Location of Sign: Along roadway on property near road
Remarks:
Posted by: [Signature] Date of return: 11/19/93
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. 11/19, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 11/19, 1993.

THE JEFFERSONIAN,
A. Henickson
LEGAL AD. - TOWSON
Publisher



W. DUVALL & ASSOCIATES, INC.

Engineers • Surveyors • Land Planners

ZONING DESCRIPTION
1630 CAPE MAY ROAD
15TH ELECTION DISTRICT OF BALTIMORE COUNTY, MARYLAND

BEGINNING for the same at a point being South 60 degrees West 330 feet, more or less, from the centerline intersection of Cape May Road and Wrights Lane; thence running for the following four courses and distances, viz:

- 1) Binding on Cape May Road South 60 degrees 51 minutes West 55 feet 6 inches; thence
- 2) North 27 degrees 45 minutes East 294 feet; thence
- 3) North 60 degrees 51 minutes East 55 feet 6 inches; thence
- 4) South 27 degrees 45 minutes 294 feet to the point of beginning.

CONTAINING 16,317 square feet or 0.3748 acres of land, more or less.



#190

530 East Joppa Road/Towson, Maryland 21286/(410) 583-9571

Petition for Variance to the Zoning Commissioner of Baltimore County

for the property located at 1630 Cape May Road
which is presently zoned DR-3-5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1802.3.C.1 (B.C.Z.R.) to allow a lot width of 55.5' in lieu of the required 70'.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty) TO BE DISCUSSED AT HEARING (practical difficulty)

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

W. Duvall & Associates, Inc.
540 E. Joppa Road
Towson, Maryland 21286
Attorney for Petitioner

Roger Watkins
Beatrice K. Watkins
11501 Sherwood Road (410) 592-6259
Upper Falls, Maryland 21156

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Upper Falls, Maryland 21156

ESTIMATED LENGTH OF HEARING
The following date: 11/19/93 Next Two Months

ALL OTHER: 9/4 DATE 11/19/93

#190

ORDER RECEIVED FOR FILING
Date 12/13/93
By [Signature]

